

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

**DAVIDA TWOBULLS, and
LACI SWEETSER,**

Plaintiffs,

v.

**ANTHONY GRATZ, TATE
HALLOWELL, JIM PESCHONG,
JEFF BLIEMEISTER, LINCOLN
POLICE DEPARTMENT, and CITY
OF LINCOLN, NEBRASKA,**

Defendants.

4:17CV3051

**MEMORANDUM AND
ORDER**

This matter is before the court on the Plaintiffs’ Motions for Leave to Proceed in Forma Pauperis (“IFP”). ([Filing No. 2](#); [Filing No. 3](#)) The Court has received certified copies of the Plaintiffs’ trust account information. ([Filing No. 7](#); [Filing No. 8](#)). The Plaintiffs are permitted to proceed IFP.

Pursuant to the Prison Litigation Reform Act (“PLRA”), prisoner plaintiffs are required to pay the full amount of the court’s \$350.00 filing fee by making monthly payments to the court, even if the prisoners are proceeding IFP. 28 U.S.C. § 1915(b). “[T]he PLRA makes prisoners responsible for their filing fees the moment the prisoner brings a civil action or files an appeal.” *In re Tyler*, 110 F.3d 528, 529-30 (8th Cir. 1997); *Jackson v. N.P. Dodge Realty Co.*, 173 F. Supp. 2d 951 (D. Neb. 2001). This district requires each prisoner in a joint civil rights action to pay the full civil filing fee. See *Cole v. Houston*, No. 4:06cv3314, 2007 WL 1309821 (D. Neb. March 30, 2007); NECivR 3.3(c).

Pursuant to 28 U.S.C. § 1915(b)(1), a plaintiff must pay an initial partial filing fee in the amount of 20 percent of the greater of the plaintiff’s average monthly account balance or average monthly deposits for the six months preceding the filing of the complaint.

Here, the court finds that plaintiff Laci Sweetser's initial partial filing fee is \$20.73, based on average monthly deposits in the amount of \$103.63. The court finds that plaintiff DaVida Twobulls' initial partial filing fee is \$15.11, based on average monthly deposits in the amount of \$75.56. Both plaintiffs must pay this initial partial filing fee within 30 days or their case will be subject to dismissal. The Plaintiffs may request an extension of time if one is needed.

In addition to the initial partial filing fee, Plaintiffs must "make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account." 28 U.S.C. § 1915(b)(2). The statute places the burden on the prisoner's institution to collect the additional monthly payments and forward them to the court as follows:

After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. The agency having custody of the prisoner shall forward payments from the prisoner's account to the clerk of the court each time the amount in the account exceeds \$10 until the filing fees are paid.

28 U.S.C. § 1915(b)(2). See also, NECivR. 3.3(b)(2). Therefore, after payment in full of the initial partial filing fee, the remaining installments shall be collected pursuant to this procedure.

Plaintiffs are advised that they will remain responsible for the entire filing fee, as long as they are prisoners, even if the case is dismissed at some later time. See *In re Tyler*, 110 F.3d at 529-30; *Jackson*, 173 F. Supp. 2d at 951.

IT IS THEREFORE ORDERED that:

1. Plaintiffs' Motions for Leave to Proceed in Forma Pauperis ([Filing No. 2](#); [Filing No. 3](#)) are granted.
2. Plaintiff Laci Sweetser must pay an initial partial filing fee of \$20.73 within 30 days, unless the court extends the time in which she has to pay in response to a written motion.

3. Plaintiff DaVida Twobulls' must pay an initial partial filing fee of \$15.11 within 30 days, unless the court extends the time in which she has to pay in response to a written motion.

4. After payment of the initial partial filing fee, Plaintiffs' institution must collect the additional monthly payments in the manner set forth in 28 U.S.C. § 1915(b)(2), quoted above, and forward those payments to the court.

5. The clerk's office is directed to send a copy of this order to the appropriate official at Plaintiffs' institutions.

6. The clerk's office is directed to set a pro se case management deadline in this case using the following text: June 12, 2017: initial partial filing fee payment due.

DATED: May 10, 2017.

BY THE COURT:

**s/ F.A. Gossett, III
United States Magistrate Judge**